

***** NOT FOR PUBLICATION *****

NO. 25584

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

COUNTY OF HAWAI'I, a Municipal Corporation, Plaintiff-Appellant

vs.

ROBERT NIGEL RICHARDS, Trustee Under the Marilyn Sue Wilson Trust; ROBERT NIGEL RICHARDS, Trustee Under the Joan

Elizabeth Coupe Trust; CHARLES WILLIAM COUPE; JOAN ELIZABETH COUPE; MILES HUGH WILSON; JOAN COUPE, Trustee Under Revocable Trust of Joan Coupe Dated March 30, 1989, Defendants-Appellees

APPEAL FROM THE THIRD CIRCUIT COURT
(CIV. NO. 00-1-0181K)

ORDER DISMISSING APPEAL

(By: Moon, C.J., Levinson and Nakayama, JJ.,
and Circuit Judge Town, in place of Acoba, J., unavailable,
and Circuit Judge Alm, assigned by reason of vacancy)

Upon review of the statements supporting and contesting jurisdiction, the motion to dismiss appeal, the papers in support and in opposition and the record, it appears that the circuit court's December 11, 2002 order did not decide the issue of public use and is not reviewable by interlocutory appeal pursuant to HRS § 101-34. The December 11, 2002 order did not vacate the October 9, 2000 order putting the plaintiff in possession of the subject property and did not vacate the award of possession made pursuant to HRS § 101-29. Rather, the December 11, 2002 order stayed the award of possession until entry of final judgment and postponed the plaintiff's right to enter and to continue construction on the subject property until entry of final judgment. The stay of the award of possession did not effect an immediate transfer of the subject property from the plaintiff to

***** NOT FOR PUBLICATION *****

the defendants and the stay is not immediately appealable under the Forgay doctrine. Therefore,

IT IS HEREBY ORDERED that this appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, May 9, 2003.